

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|--|---------------------------|---|---|---------------------------------|
| Investigator: Judith Le | Team: Squad #8 | CCRB Case #: 201700550 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Saturday, 01/21/2017 , Sunday, 01/22/2017 12:10 AM | Location of Incident: § 87(2)(b) [REDACTED] | Precinct: 42 | 18 Mo. SOL 7/22/2018 | EO SOL 7/22/2018 | |
| Date/Time CV Reported Mon, 01/23/2017 1:23 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Mon, 01/23/2017 1:23 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

| Witness(es) | Home Address |
|-------------|--------------|
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------------|--------|--------|---------|
| 1. POM Nicholas Rios | 06583 | 955377 | PSA 7 |
| 2. POM Andrew Yakubovsky | 17793 | 949813 | 042 PCT |
| 3. POM Marco Padilla | 25056 | 946525 | 042 PCT |
| 4. POM Kenneth Marelo | 12549 | 960870 | 042 PCT |
| 5. An officer | | | |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. LT Philip Terpos | 00000 | 931314 | 042 PCT |
| 2. POM Phillip Pena | 11192 | 956156 | PSA 7 |
| 3. POM Giovanni Laguna | 26882 | 952959 | PSA 7 |
| 4. SGT Miguel Frias | 1309 | 930184 | PSA 7 |
| 5. POF Chris Aybar | 15039 | 955736 | 042 PCT |
| 6. POM Xavier Larino | 13312 | 950725 | 042 PCT |
| 7. POM Christophe Britton | 00229 | 952496 | 042 PCT |
| 8. SGT Fidel Rosario | 02850 | 943759 | 042 PCT |
| 9. LT Eric Dym | 00000 | 933762 | PSA 7 |

| Officer(s) | Allegation | Investigator Recommendation |
|----------------------|--|-----------------------------|
| A.POM Marco Padilla | Abuse: Police Officer Marco Padilla stopped § 87(2)(b) [REDACTED] | [REDACTED] |
| B.POM Kenneth Marelo | Abuse: Police Officer Kenneth Marelo stopped § 87(2)(b) [REDACTED] | [REDACTED] |

| Officer(s) | Allegation | Investigator Recommendation |
|-------------------------|---|-----------------------------|
| C.POM Marco Padilla | Abuse: Police Officer Marco Padilla frisked § 87(2)(b) | |
| D.POM Kenneth Mareello | Abuse: Police Officer Kenneth Mareello frisked § 87(2)(b) | |
| E.POM Nicholas Rios | Abuse: Police Officer Nicholas Rios stopped § 87(2)(b) | |
| F.POM Nicholas Rios | Force: Police Officer Nicholas Rios used physical force against § 87(2)(b) | |
| G.POM Nicholas Rios | Abuse: Police Officer Nicholas Rios stopped § 87(2)(b) | |
| H.POM Nicholas Rios | Abuse: Police Officer Nicholas Rios stopped § 87(2)(b) | |
| I.POM Nicholas Rios | Force: Police Officer Nicholas Rios used physical force against § 87(2)(b) | |
| J.POM Nicholas Rios | Force: Police Officer Nicholas Rios used physical force against § 87(2)(b) | |
| K.POM Nicholas Rios | Discourtesy: Police Officer Nicholas Rios spoke discourteously to § 87(2)(b) | |
| L.POM Nicholas Rios | Abuse: Police Officer Nicholas Rios frisked § 87(2)(b) | |
| M. An officer | Discourtesy: An officer spoke discourteously to § 87(2)(b) | |
| N. An officer | Abuse: An officer threatened to arrest § 87(2)(b) | |
| O. An officer | Abuse: An officer searched § 87(2)(b) | |
| P.POM Andrew Yakubovsky | Abuse: Police Officer Andrew Yakubovsky entered and searched § 87(2)(b) in the Bronx. | |
| Q.POM Nicholas Rios | Abuse: Police Officer Nicholas Rios refused to provide his name and shield number to § 87(2)(b) | |

Case Summary

On January 22, 2017 at 12:10 a.m., an employee of J&E Grocery, located at 500 East 165th Street in the Bronx called 911 to report an incident involving a black male with a gray sweater and a skinny Hispanic male in a yellow jacket with a firearm. Shortly thereafter, § 87(2)(b) was walking home from J&E Grocery when he was stopped and frisked by PO Marco Padilla and PO Kenneth Marello of the 42nd Precinct (**Allegations A, B, C and D**). They did not find any weapons on him and instructed him to go home. § 87(2)(b)'s friends, § 87(2)(b) and § 87(2)(b) were waiting for him across the street at the side entrance of § 87(2)(b) in the Bronx where they resided. As § 87(2)(b) was about to enter the building, he saw a strange man in plainclothes, PO Nicolas Rios of PSA 7, running towards him (**Allegation E**). § 87(2)(b) ran into the building, but PO Rios allegedly tackled him to the ground, causing a cut above his right eye (**Allegation F**). While § 87(2)(b) was on the ground, PO Rios continued to chase § 87(2)(b) and § 87(2)(b) (**Allegations G and H**) into a back stairwell. As § 87(2)(b) and § 87(2)(b) were trying to go up the stairs, PO Rios allegedly grabbed them and slammed them against the ground (**Allegations I and J**). § 87(2)(b) fell on his leg and he and § 87(2)(b) began shouting in pain. § 87(2)(b) tried to pick himself up, but PO Rios threw him against the stairwell wall and allegedly hit him once on the side of his head. PO Rios also purportedly said, "Shut the fuck up, you shouldn't have run" (**Allegation K**). PO Rios frisked § 87(2)(b) (**Allegation L**). PO Rios then left and other officers entered the stairwell. An officer allegedly told § 87(2)(b) "Shut the fuck up. Do you want to go to jail?" (**Allegation M**). The officer then allegedly searched his two front pockets and sweater pockets (**Allegation N**).

During this time, § 87(2)(b) had returned to his apartment on the second floor. Lt. Philip Terpos and PO Andrew Yakubovsky of the 42nd Precinct were conducting a vertical when they heard yelling. They knocked on the door and § 87(2)(b) and his girlfriend, § 87(2)(b) opened it. § 87(2)(b) informed the officers that he had sustained injuries from a Member of Service. While § 87(2)(b) was speaking with Lt. Terpos and § 87(2)(b) PO Yakubovsky allegedly entered the apartment and began searching under the couch with his flashlight (**Allegation O**). § 87(2)(b) instructed him to get out of the apartment, and eventually everyone went downstairs. While standing outside, § 87(2)(b) asked PO Rios for his name and badge number and he allegedly refused to provide it (**Allegation P**).

§ 87(2)(g)

The investigation consulted with an attorney about this case.

Video footage was obtained on January 22, 2017 from security cameras located at § 87(2)(b) in the Bronx (see Board Review #2-4). The videos are time-stamped, but run on a ten minute delay. There is no sound accompanying the video.

This case exceeded the 90-day threshold on April 23, 2017 due to the identification and scheduling of officers and a complex set of circumstances involving multiple civilians and multiple officers from separate commands.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to injuries sustained by § 87(2)(b)
- § 87(2)(b)
- A search of BADS revealed that § 87(2)(b) has no prior criminal convictions (see Board Review #6).
- A search of BADS revealed that § 87(2)(b) had no prior criminal convictions (see Board Review #7).
- A search of BADS revealed that § 87(2)(b) has no prior criminal convictions (see Board Review #8).
- The Comptroller of the City of New York recorded a Notice of Claim filed by § 87(2)(b) in regards to this incident. The claim alleges assault and battery, police brutality and a breach of civil rights. § 87(2)(b) is requesting damages in the sum of \$10,000,000 (see Board Review #9).
- The Comptroller of the City of New York recorded a Notice of Claim filed by § 87(2)(b) in regards to this incident. The claim alleges assault and battery, police brutality and a breach of civil rights. § 87(2)(b) is requesting damages in the sum of \$10,000,000 (see Board Review #10).
- As of May 24, 2017, a Notice of Claim has not been filed by § 87(2)(b) (see Board Review #12).
- As of May 24, 2017, a Notice of Claim has not been filed by § 87(2)(b) (see Board Review #12).

Civilian and Officer CCRB Histories

- PO Rios has been a Member of Service for three years. He currently has one additional CCRB case, 201703664, pending investigation. PO Rios has been a subject in three prior complaints, totaling thirteen allegations and five substantiations. In CCRB case 201507072 an allegation of abuse (frisk) was closed with a Board Disposition of Command Discipline B and NYPD disposition/penalty of formalized training. In CCRB case 201608992, which was also investigated by the undersigned, allegations of abuse (refusal to provide name/shield), two allegations of abuse (frisk) and abuse (other) were substantiated with a Board Disposition of Command Discipline A. The NYPD disposition is pending. § 87(2)(g)
- PO Padilla has been a Member of Service for nine years and has not been a subject in any previous CCRB complaints (see Board Review #14).
- PO Marelo has been a Member of Service for one year and has not been a subject in any previous CCRB complaints (see Board Review #15).

- PO Yakubovsky has been a Member of Service for six years and has not been a subject in any previous CCRB complaints (see Board Review #16).
- § 87(2)(b)
- This is § 87(2)(b)'s first CCRB complaint (see Board Review #18).
- This is § 87(2)(b)'s first CCRB complaint (see Board Review #19).
- § 87(2)(b)

Potential Issues

Explanation of Subject Officer Identification

§ 87(2)(b) reported that he was standing in the stairwell with sixteen officers with their badges out when a white male officer instructed him to, "Shut the fuck up," and searched his pockets. He described the white male officer as 5'1" or 5'2", in his mid-30s and wearing a black hat. § 87(2)(b) who was in the stairwell with § 87(2)(b) stated that his view was obstructed because his face was against the wall. He could only remember that the officers were male and in plainclothes. Video footage provided by § 87(2)(b) Security Camera 10 (see Board Review #4) shows nine officers, in addition to PO Rios and Sgt. Frias entering the stairwell. Of these, eight appeared to be white/Hispanic males in plainclothes, seven of whom were wearing black hats. None of the eight officers interviewed fit the description provided nor were they able to identify any other officers on scene. Other witness officers identified: PO Aybar, who is female, Lt. Dyn, Sgt. Rosario and PO Britton all range in height from 5'10" to 6'2". Based on the above, the discourtesy and search allegations are pleaded against "An officer."

Findings and Recommendations

Allegation A - Abuse: Police Officer Marco Padilla stopped § 87(2)(b)

Allegation B - Abuse: Police Officer Kenneth Marello stopped § 87(2)(b)

Allegation C - Abuse: Police Officer Marco Padilla frisked § 87(2)(b)

Allegation D - Abuse: Police Officer Kenneth Marello frisked § 87(2)(b)

It is undisputed that after § 87(2)(b) left J& E Grocery he was stopped and frisked by officers. In dispute was their authority to do so.

In the 911 radio message for Event #§ 87(2)(b) (see Board Review #21) at the <00:02> mark, the 911 dispatcher states: 42-C. At the <00:05> mark, 42-C to 911 dispatcher: This is 42-C. At the <00:06> mark, 911 dispatcher: Check-in advised on a 52 with a firearm East 165 and 3rd Ave. It says one male Hispanic slim build wearing a yellow coat. He has a firearm. At the <00:41> mark, 911 dispatcher: 10-4. It's going to be a slim build male Hispanic wearing a yellow coat with a firearm and a male black wearing a gray sweater both between 18-20 years old. No injuries. Both inside of the deli at the location.

The 42nd Precinct Tour 1 Roll Call for January 22, 2017 (see Board Review #22) shows PO Padilla and PO Marello assigned to Patrol Sector C.

§ 87(2)(b) (see Board Review #23), a Hispanic male, testified that on the morning of January 22, 2017, he was wearing a navy blue down coat, white sweater, black and white sneakers and jeans. The down jacket (see Board Review #24) has a visible yellow trim. § 87(2)(b) (see Board Review #25) stated that he and § 87(2)(b) went to J&E Grocery, but when they got there, the store was in the process of closing down. They walked in and out of the store and did not speak or argue with anyone while there. As they were walking home from the store, two uniformed cops, identified through investigation as PO Padilla and PO Marello asked § 87(2)(b) to come over to their vehicle. § 87(2)(b) complied and asked what was going on. The officers asked § 87(2)(b) if § 87(2)(b) was with him and he said no. The officers then hopped out of their car and immediately frisked his pockets and jacket. They kept asking him if he had any weapons on him and he told them no. After they checked him, they told him not to stay in the area and leave. He walked home to § 87(2)(b) and the officers left.

§ 87(2)(b) (see Board Review #26), a black male, stated that he was hanging out with § 87(2)(b) and § 87(2)(b). He was wearing a gray sweater, jeans and red sneakers. § 87(2)(b) had smoked marijuana two or three hours earlier and gone up the block to the store before returning to § 87(2)(b). He did not mention any issues at the store or incidents involving the police.

§ 87(2)(b) (see Board Review #27) was hanging out with his cousins, § 87(2)(b) and § 87(2)(b) and § 87(2)(b) at § 87(2)(b) when at approximately 11:55 p.m. they decided to go to the corner store across the street. § 87(2)(b) was wearing a military green bomber jacket, gray shirt and blue jeans. He did not have anything in his pockets except for his phone, which was in his jeans. When they got to J&E Grocery, the store was in the process of closing and pulling down its gate so they turned around and began walking back. § 87(2)(b) was walking ahead and § 87(2)(b) and § 87(2)(b) were walking further behind. All of a sudden two uniformed officers who were in their car started yelling at them, “Hey, hey, what ya’ll doing?” § 87(2)(b) ignored them and continued to walking. He could not remember if he spoke to the officers. § 87(2)(b) stopped and the officers jumped out of their car and searched § 87(2)(b)’s pockets. § 87(2)(b) did not know which specific officers searched § 87(2)(b) because he was not there. § 87(2)(b) asked the officers why they were doing that and the officers instructed him to shut up. After they didn’t find anything they let him go.

§ 87(2)(b) (see Board Review #28), who called 911, stated that he saw two guys come in on his security camera and ask if they could buy something on credit. His employee, who was running the store at the time, told them that the store was closing and they couldn’t buy anything. The guys got mad and as the employee was trying to get the gate down, they were kicking and pushing the door. They guys told § 87(2)(b)’s employee that they were going to wait outside and shoot them. The cops then showed up and told the guys to stop.

PO Padilla (see Board Review #29) stated that he and PO Marello had just completed another job when one of them saw a guy standing by himself at the corner J&E Grocery on East 165th Street. PO Padilla could not recall who spotted him. Both officers got out of their car and spoke to the male, identified through investigation as § 87(2)(b) on the sidewalk. PO Padilla estimated they spoke to him for no more than five minutes. PO Padilla believed the male was not

wearing a yellow coat and was compliant. They did not see any guns on him. PO Padilla could not remember if they frisked him, but said that if he fit the description for the perpetrator he would have been frisked because he was in the same location as the gun run. PO Padilla told the male that he needed to move because they had received a call for a guy with a gun in that location and he needed to move for his safety.

PO Marelo (see Board Review #30) stated that sometime between 12:05 and 12:10 a.m., he and his partner, PO Padilla, were dispatched to assist a sick person on Boston Road. As they were en route, a truck stopped and an unknown man told them that down the road, at J&E Grocery, someone was kicking the deli door. PO Marelo and PO Padilla then went to the deli. The owners were inside trying to close the metal security gate and they saw an individual, identified through investigation as § 87(2)(b) kick the deli front door twice. A few minutes later they stopped and asked § 87(2)(b) what he was doing. He stated that the deli owner had disrespected him. PO Padilla then frisked him and they did not find any weapons so they let him go. Shortly thereafter they received a call for a dispute with a firearm. PO Marelo reviewed the EVENTS and verified that 42C who responded to the job was him and his partner. He noted that the location for the call was J&E grocery. PO Marelo stated that he did not believe the stop at the deli and the gun run were related because PO Padilla had frisked § 87(2)(b) and he did not have a weapon.

Under P.G. 212-11 (see Board Review #31) a Terry stop/level 3 encounter is any encounter between a civilian and a uniformed member of the service in which a reasonable person would not feel free to disregard the officer and walk away. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. P.G. 212-11 states that reasonable suspicion exists when the information known to the MOS would make an ordinarily prudent cautious police officer under the circumstances believe that criminal activity is at hand. The officer must have a particularized and objective basis for suspecting the person stopped of the criminal conduct. A frisk is authorized when the member of service reasonably suspects the person is armed and dangerous. This includes situations in which the officer reasonably suspects that the person has committed, is committing, or is about to commit a violent crime or when the officer observes something on the person that she/he reasonably suspects is a weapon.

§ 87(2)(g)
[REDACTED]

Allegation E - Abuse: Police Officer Nicholas Rios stopped § 87(2)(b)
Allegation F – Physical Force: Police Officer Nicholas Rios used physical force against

§ 87(2)(b)
[REDACTED]

It is undisputed that after leaving J&E grocery § 87(2)(b) walked home to § 87(2)(b) In dispute are the events thereafter.



Snagit§ 87(2)(b).mp4

Video footage provided by 501 East 165th Street Security Camera 4 (see Board Review #2), located above the East 165th Street exterior side entrance was time-stamped 12:02:56 a.m. to 12:03:21 a.m. It shows at the <00:00> mark, a male in a white tank top, identified through investigation as § 87(2)(b) holding open the side entrance and looking down the street. At the <00:01> mark, two males, identified through investigation as § 87(2)(b) and § 87(2)(b) walk to the side entrance and join § 87(2)(b). They hold the door open and all look down the sidewalk. At the <00:07> mark, a male in a white hooded sweatshirt, identified through investigation as § 87(2)(b) crosses 165th Street to the sidewalk in front of the side entrance. He appears to be walking to the side entrance door, which is being held open by § 87(2)(b) and § 87(2)(b). At the <00:08> mark, a marked RMP drives slowly down East 165th Street. § 87(2)(b) walks towards the door while staring at the RMP. At the <00:16> mark, § 87(2)(b) turns and looks towards the street. From behind him, a male, identified through investigation as PO Rios begins running towards him. At the <00:18> mark, § 87(2)(b) turns to go into the building. PO Rios is now next to him. They appear to both be trying to enter the doorway. § 87(2)(b) then appears to hit the wall and his head snaps back. PO Rios continues running into the door (time-stamped 12:03:13 a.m.). At the <00:19> mark, time-stamped 12:03:14 a.m., § 87(2)(b) enters the side door.



snagit 2 of 3.mp4

Video footage provided by § 87(2)(b) Security Camera 2 (see Board Review #3), which is located directly above the interior § 87(2)(b) side entrance door, shows a hallway and stairwell entrance and is time-stamped at 12:03:03 a.m. to 12:03:39. At the <00:09> mark, § 87(2)(b) and § 87(2)(b) come from the direction of the side entrance. They run down the hallway and then turn left at the corner. Shortly thereafter, § 87(2)(b) runs down the hallway to the stairwell door. At the <00:10> mark, time-stamped 12:03:15 a.m., PO Rios enters the hallway. § 87(2)(b) stands in the corner next to the stairwell and appears to make a motion with his arms as PO Rios runs past him and turns the corner. At the <00:11> mark, § 87(2)(b) stumbles into the hallway. § 87(2)(b) opens the stairwell door and enters the stairwell. At the <00:14> mark, § 87(2)(b) reaches the stairwell door which is ajar and goes into the stairwell.

§ 87(2)(b)'s medical records (see Board Review #32) show that he was taken on January 22, 2017 to the § 87(2)(b) by EMS. He stated that he had been slammed by the cops and lost consciousness. § 87(2)(b) walked out before being seen by a physician. He subsequently walked in to § 87(2)(b). § 87(2)(b) complained that cops had beat him up and he had been tackled to the ground, resulting in loss of consciousness and a 3cm laceration to his left eyelid. His laceration was

repaired and a brain CT showed no acute abnormalities. Pain control was provided and § 87(2)(b) was discharged home.

§ 87(2)(b) (see Board Review #23) testified that he had been standing outside the building side door with § 87(2)(b) and § 87(2)(b) for approximately two minutes when he saw an all-tinted black car pull up. A strange man, identified through investigation as PO Rios, then hopped out of the car and started running towards them. PO Rios did not say anything and did not have a badge. § 87(2)(b)'s friends were yelling, "Who's that?" § 87(2)(b) was scared so he ran into the building. His friends were running in front of him. § 87(2)(b) heard the door open, turned around and saw PO Rios rushing towards him. PO Rios grabbed § 87(2)(b)'s hoodie and tackled him onto the floor. His face hit the floor and he cut his left eye, causing him to bleed. § 87(2)(b) noted that during this time, § 87(2)(b) and § 87(2)(b) had kept running, and after PO Rios tackled § 87(2)(b) he immediately got up and continued running after them. § 87(2)(b)'s brother, § 87(2)(b) then grabbed him and took him upstairs.

§ 87(2)(b) (see Board Review #26) stated that he, § 87(2)(b) and § 87(2)(b) had been standing about five feet from the backdoor of his building, when they saw a black car with tinted windows pull up. § 87(2)(b) did not know who was in the car and it made him comfortable. He opened the back door and § 87(2)(b) walked in first, followed by § 87(2)(b). He didn't see if § 87(2)(b) was behind him because that's when he heard a loud thud and immediately began running.

§ 87(2)(b) (see Board Review #27) testified that by the time he got to § 87(2)(b), § 87(2)(b) and § 87(2)(b) were all standing by the door and waiting for § 87(2)(b) for a minute or two. § 87(2)(b) was holding open the emergency door handle. All of a sudden they saw a man, identified through investigation as PO Rios, running at them. § 87(2)(b) did not know he was a police officer because he didn't have a badge. § 87(2)(b) stated he did not see what happened to § 87(2)(b) as he and § 87(2)(b) were trying to run from the man chasing them.

§ 87(2)(b) (see Board Review #33) stated that at some point after 12:00 a.m., he walked down to the building lobby from his apartment on the second floor. He was wearing a white tank top and basketball shorts. § 87(2)(b) then opened the back rear door and saw § 87(2)(b) and his brother, § 87(2)(b) approaching the doorway. He believed that they were returning from a store nearby. § 87(2)(b) and § 87(2)(b) walked through the door at a regular pace. § 87(2)(b) was walking behind them and was turning around and looking at something behind him. § 87(2)(b) did not know what his brother was looking at and did not see anyone approaching behind him. As § 87(2)(b) entered the building, three officers suddenly came running into the building behind him, yelling, "Freeze!" The first officer, identified through investigation as PO Rios, grabbed § 87(2)(b) by his hoodie, tackling him like he was playing football and pushed him to the ground in one full motion. § 87(2)(b) landed on his face and began bleeding immediately. § 87(2)(b) backed away to the staircase and saw § 87(2)(b) and § 87(2)(b) run off. PO Rios was chasing them. § 87(2)(b) then got up and they went back to their apartment.

PO Rios (see Board Review #34) was responding to a radio run for a dispute with a firearm at a corner store located at 165th Street and 3rd Ave. involving two males, one wearing a yellow jacket and the other a gray sweater. PO Rios estimated he arrived within a minute of receiving the call and saw a Hispanic male, identified as § 87(2)(b) who matched the description. § 87(2)(b) was wearing a black jacket with yellow lining and walking away from the incident location towards § 87(2)(b). A marked RMP from the 42nd Precinct was in front of PO Rios' vehicle and driving slowly down the street. PO Rios assumed that the RMP was also responding to the radio run and looking at § 87(2)(b) as there would be no other reason for them to drive so slowly. § 87(2)(b) was walking slowly and staring at the RMP. PO Rios decided to exit his vehicle because § 87(2)(b) matched the description of the perpetrator and PO Rios wanted to stop him. The RMP slowed down so PO Rios could get out. He could not remember if anyone got out of the car with him. PO Rios began walking about one car length behind § 87(2)(b). He noted that there were also two males, identified as § 87(2)(b) and § 87(2)(b) standing in the doorway. When PO Rios got about an arm's reach away, he said loud and clear, "Police. Don't move!" PO Rios noted that although he was in plainclothes and his badge was not visible, he had on the color of the day and announced himself as police. He stated that his intention was to ask everyone about the firearm at the deli, but noted that once he announced himself § 87(2)(b) looked back and took off running. PO Rios said there was a lot of commotion because all three males were trying to get into the doorway at once. § 87(2)(b) and § 87(2)(b) went in first. § 87(2)(b) then went, ran into the door frame and fell to the ground. PO Rios said that he never pushed or nudged § 87(2)(b). He stated that while there was a chance their bodies could have unintentionally brushed as he ran passed, there would not have been enough force for § 87(2)(b) to fall. Since PO Rios saw § 87(2)(b) fall to the ground, he continued passed him to get to § 87(2)(b). He did not radio for back up or stop because he assumed there were other officers behind him.

Sgt. Miguel Frias of PSA 7's statement (see Board Review #35) was consistent with PO Rios. He also noted that he and PO Rios communicated to each other that § 87(2)(b) matched the description they had heard over the radio. PO Rios exited the vehicle about three or four car lengths away from the building entrance and Sgt. Frias got out and walked a few feet behind him. When they were about two feet from § 87(2)(b) they both yelled, "Police," at which point § 87(2)(b) began running into § 87(2)(b). PO Rios followed him. When Sgt. Frias arrived at the building and opened the door, he saw § 87(2)(b) get up from the floor and run towards the stairwell.

PO Phillip Peña of PSA 7 (see board Review #36) stated when he, PO Rios, Sgt. Frias and PO Laguna arrived at 165th and 3rd Ave., someone, but PO Peña could not remember who, saw a male in a black jacket, identified through investigation as § 87(2)(b) walking west on East 165th Street by himself. § 87(2)(b) was adjusting his waistband, which was usually indicative of hiding a weapon. They followed him in their car for a few seconds until he stopped in front of the side entrance of § 87(2)(b). PO Rios, who was sitting in the rear passenger side, exited the vehicle and headed towards § 87(2)(b) to stop him. He could not recall if PO Rios issued any sort of command. A few seconds later, Sgt. Frias exited from the front passenger side and PO Peña exited from the rear driver side. At that point in time there were three males at the door, including § 87(2)(b). PO Peña could not recall seeing if any of the males hit anything as they went into the building. He did not see PO Rios slam anyone and the

males fled inside. He did not know where they went. PO Peña followed Sgt. Frias into the side entrance. He did not see anyone on the floor or bleeding on the floor near the side entrance door.

PO Giovanni Laguna of PSA 7's statement (see Board Review #37) was also consistent with PO Rios, Sgt. Frias and PO Peña. He noted that after § 87(2)(b) stopped in front of the side entrance of a residential building, another male, identified by PO Laguna as § 87(2)(b) was standing in the doorway. PO Laguna could not tell what § 87(2)(b) was doing, but he did not raise his suspicions. After PO Rios exited the vehicle, PO Laguna kept driving. When PO Laguna reached the building side entrance, all he could see was PO Rios running inside. He did not know where § 87(2)(b) or § 87(2)(b) had gone, and noted that he did not see § 87(2)(b) again. He did not see anyone make impact with the doorway. PO Laguna noted that Sgt. Frias and PO Peña did not originally intend to leave the vehicle, but after they saw PO Rios run into the building, they also got out of the car and followed him inside.

PO Padilla (see Board Review #29) and PO Marello (see Board Review #30) both testified that after speaking to § 87(2)(b) they returned to their vehicle to continue canvassing. They drove down East 165th at a slow speed in the same direction that § 87(2)(b) was walking for approximately thirty seconds before leaving the area. PO Padilla (see Board #29) noted that this was by default because it was a one way street and they were not following him. PO Marello (see Board Review #30) also added that they were not making any effort to watch him since they had already let him go. He did not recall § 87(2)(b) looking at their vehicle. PO Marello did not see anyone run after § 87(2)(b) or § 87(2)(b) make contact with the door.

Under P.G. 212-11 a Terry stop/level 3 encounter is any encounter between a civilian and a uniformed member of the service in which a reasonable person would not feel free to disregard the officer and walk away. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor (see Board Review #31).

§ 87(2)(g)
[REDACTED]

Under P.G. 221-02, Members of Service may apply no more than reasonable force necessary to gain control (see Board Review #38).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation G - Abuse: Police Officer Nicholas Rios stopped § 87(2)(b)

Allegation H - Abuse: Police Officer Nicholas Rios stopped § 87(2)(b)

Allegation I – Physical Force: Police Officer Nicholas Rios used physical force against § 87(2)(b)

Allegation J – Physical Force: Police Officer Nicholas Rios used physical force against § 87(2)(b)

Allegation K – Discourtesy: Police Officer Nicholas Rios spoke discourteously to § 87(2)(b)

Allegation L - Abuse: Police Officer Nicholas Rios frisked § 87(2)(b)

Allegation M - Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation N - Abuse: An officer searched § 87(2)(b)

It is undisputed that PO Rios chased § 87(2)(b) and § 87(2)(b) into the far stairwell of § 87(2)(b). In dispute are the events that occurred thereafter.



snaglt§ 87(2)(b).mp4

Video footage provided by § 87(2)(b) Security Camera 10 (see Board Review #4) shows the hallway running parallel to the main entrance and is time-stamped 12:03:14 a.m. At the top of the screen is the entrance door to a second stairwell. At the <00:12> mark, § 87(2)(b) and § 87(2)(b) run down the hallway. At the <00:14> mark, as § 87(2)(b) and § 87(2)(b) reach the stairwell door, PO Rios enters the screen and runs down the hallway. At the <00:16> mark, § 87(2)(b) opens the stairwell door and he and § 87(2)(b) run in. At the <00:18> mark, PO Rios opens the stairwell door, enters the stairwell and appears to make a grabbing motion. The stairwell door closes. At the <00:21> mark, Sgt. Frias runs down the hallway. At the <00:26> mark, Sgt. Frias opens the door and enters the stairwell. The door closes behind him. At the <00:39> mark, three plainclothes male officers walk down the hallway and head to the stairwell. At the <00:45> mark, three additional plainclothes male officers walk down the hallway. They are followed by the female uniformed officer and two plainclothes officers. The officers hold the stairwell door open and crowd at the entrance.

§ 87(2)(b) (see Board Review #26) testified that he and § 87(2)(b) ran towards his apartment, located further down the hallway, when a man with khakis, identified through investigation as PO Rios, ran towards him saying, “Don’t run.” PO Rios did not identify himself as the police and was not wearing a badge. § 87(2)(b) stated that if he had seen a badge he wouldn’t have kept running. § 87(2)(b) didn’t have time to unlock the door to his house so

he and § 87(2)(b) ran into the staircase near the entrance of the building. § 87(2)(b) was in the process of trying to get up the stairs when PO Rios grabbed the back of his sweater, as well as § 87(2)(b) who was trying to get up the stairs. PO Rios did not say anything to them and both § 87(2)(b) and § 87(2)(b) went down together. § 87(2)(b) fell and landed on his hands and § 87(2)(b) fell forward. § 87(2)(b) was begging PO Rios to stop. § 87(2)(b) was trying to pick himself up when PO Rios put one hand on his neck and the other on his lower back and threw him against the stairwell wall. § 87(2)(b) did not move and PO Rios hit him once on the side of his head. § 87(2)(b) asked PO Rios, "Why did you hit him?" PO Rios replied, "I didn't hit him. Did you see me hit him?" § 87(2)(b) could not see what was going on because his face was pressed against the wall, but after two one or two minutes, PO Rios let him go and § 87(2)(b) turned around. PO Rios was gone and there were now sixteen cops with badges. An officer told § 87(2)(b) "Shut the fuck up. Do you want to go to jail?" After that, § 87(2)(b) decided to keep his mouth shut. The officer then pat him down and searched his two front pockets and sweater pockets. § 87(2)(b) stated that he did not have any bulges in his pockets or weapons on him. The officer pulled out a bag of weed and asked, "This is what you ran for?" § 87(2)(b) replied, "No, that it not what I ran for." The officers didn't find anything and then everyone left.

§ 87(2)(b) (see Board Review #27) stated that he and § 87(2)(b) reached the stairwell and were trying to get up the staircase when the man running at them, identified through investigation as PO Rios, came in. PO Rios grabbed § 87(2)(b) sweater with both hands and tried to slam him, causing § 87(2)(b) torso to hit the staircase and his leg to become twisted underneath him. At the same time, PO Rios slammed § 87(2)(b) on top of § 87(2)(b) near his legs. § 87(2)(b) was yelling, "My leg! My leg!" and telling PO Rios to "relax" and "chill." § 87(2)(b) was yelling, "Yo, yo, yo!" PO Rios replied, "Shut the fuck up, you shouldn't have run." He did not tell them anything else or inform them that he was part of the police. PO Rios then pulled him up by the top of his sweatshirt. He also pulled up § 87(2)(b) and instructed them both to stand against the wall. They were placed face first with their hands up against the wall. § 87(2)(b) then looked around and saw that PO Rios had disappeared. Three or four plainclothes officers then came in. A cop then smacked § 87(2)(b) but he did not know who because he couldn't turn his head. He did not see the slap, but heard it and heard § 87(2)(b) shout, "What the fuck! Why did you slap me?" An unidentified officer replied, "Shut the fuck up. I aint's slap you. Did I slap you? Did anyone see me slap you?" He estimated that the officers let him and § 87(2)(b) go after four or five minutes.

PO Rios (see Board Review #34) testified that § 87(2)(b) matched the description for the black male in the radio run. He asserted that he and § 87(2)(b) had acted as lookouts for § 87(2)(b) because they had stood in the doorway looking at the marked RMP with their eyes on edge and run from PO Rios once he identified himself. He did not hear them speak to § 87(2)(b). After seeing § 87(2)(b) fall to the ground, PO Rios ran past him to get to § 87(2)(b) who had turned and run into a staircase. PO Rios could not remember if he issued him any specific instructions. PO Rios noted that once he reached the staircase it smelled like alcohol and there was liquid on the floor. § 87(2)(b) and § 87(2)(b) were trying to get up the staircase and tripped over each other, slipping on the liquid and falling onto each other. PO Rios did not grab or push them to prevent them from running. PO Rios, who was still by himself, then grabbed § 87(2)(b) and § 87(2)(b) somewhere on their bodies to pick them up and

ordered them to get against the wall. He did not use profanity towards them nor ask § 87(2)(b) if he wanted to go to jail. § 87(2)(b) and § 87(2)(b) were placed standing, facing the wall with their hands up. PO Rios explained to them why they had been stopped. PO Rios saw a bulge on § 87(2)(b) and in combination with the radio run decided to stop and frisk him. He could not remember what the bulge looked like or where it was located, but stated that he did not find any weapons on § 87(2)(b). PO Rios could not remember who frisked § 87(2)(b) or if he had any bulges, but noted no weapons were also found on him. He did not know if § 87(2)(b) was searched. PO Rios stated that outside of grabbing § 87(2)(b) and § 87(2)(b) to place them against the wall, he did not make additional physical contact with them nor did he strike § 87(2)(b) in the face. As PO Rios was obtaining § 87(2)(b) pedigree information, additional officers arrived. PO Rios remembered seeing Sgt. Frias, PO Peña and other uniformed and plainclothes officers from the 42nd Precinct who he did not recognize.

Sgt. Frias (see Board Review #35) stated that he was in the hallway when he saw § 87(2)(b) who was wearing a gray hoodie and gray sweats, and another person, identified as § 87(2)(b) running in the lobby. Sgt. Frias noted that § 87(2)(b) and § 87(2)(b) raised his suspicions because they ran away from the officers, were in the vicinity of radio run and had held the door open for § 87(2)(b). § 87(2)(b) was going into the stairwell when Sgt. Frias heard PO Rios yelling, “Get down. Get down.” Sgt. Frias decided not to pursue § 87(2)(b) because PO Rios was yelling and he did not want him to be by himself. By the time Sgt. Frias opened the stairwell door, PO Rios already had § 87(2)(b) and § 87(2)(b) detained on the stairwell. PO Rios was holding onto § 87(2)(b) and § 87(2)(b) by their jackets. They were yelling and screaming, “I didn’t do anything. Why are you stopping me?” § 87(2)(b) was closer to the door and Sgt. Frias grabbed him and placed him against the wall directly across from the staircase and had him put both his hands up. He did not use any force or throw him against the wall. Sgt. Frias then frisked him around his waist, groin and ankle-area—anywhere there might be weapons, for his safety. § 87(2)(b) was compliant. Sgt. Frias did not feel any bulges. Sgt. Frias did not search § 87(2)(b) pull out a bag of weed or state, “This is what you ran for?” He did not make any other physical contact with § 87(2)(b) or hit him in the face. He did not see PO Rios hit him in the face. He stated that neither he nor PO Rios told him to, “Shut the fuck up” or ask him if he wanted to go to jail. During this time PO Rios was frisking § 87(2)(b) but Sgt. Frias could not really see what was going on. A few seconds later other plainclothes and uniformed officers arrived. Sgt. Frias only recognized Lt. Dym and PO Peña. Sgt. Frias did not know if the other officers interacted with § 87(2)(b) and § 87(2)(b) but to his knowledge, § 87(2)(b) was not frisked again. After about a minute or so, Sgt. Frias left the stairwell and went to do a quick canvass of the building for § 87(2)(b).

PO Peña (see Board Review #36) and Sgt. Frias were running down the hallway when Sgt. Frias stopped at a stairwell doorway and asked where PO Rios was. PO Peña was confused because he thought Sgt. Frias was behind PO Rios and replied that he did not know. Sgt. Frias then opened the stairwell door, looked in and turned down the hallway. PO Peña opened the door to the stairwell, walked in to listen for any noise and came back out. When he came out, about ten additional plainclothes and uniformed officers had arrived. PO Peña then approached an entrance to another stairwell and saw PO Rios and Sgt. Frias through the glass window in the door. PO Rios had detained § 87(2)(b) and § 87(2)(b). From what he could recall, it was just the four of them in the stairwell. PO Peña did not know how they had been stopped. § 87(2)(b) and

§ 87(2)(b) were standing opposite the steps and facing the wall with their hands at their sides. PO Peña stepped briefly into the stairwell and saw PO Rios questioning § 87(2)(b) and § 87(2)(b). They appeared frustrated about being stopped and were sighing and making faces. He could not remember if anyone else spoke to § 87(2)(b) or § 87(2)(b). PO Peña did not see anyone strike § 87(2)(b) in the face. He did not hear an officer use profanity. He could not recall if any officers touched or searched § 87(2)(b). He did not search § 87(2)(b).

PO Laguna (see Board Review #37) stood outside the building's front entrance for approximately two to three minutes, before going inside to make sure everyone was okay. He saw § 87(2)(b) and § 87(2)(b) standing against a wall. He did not know who had stopped them. He walked near them, but could not see what was going on. He did not see anyone slam the males against the wall, hit their faces, frisk or search them. He did not hear anyone tell them to, "Shut the fuck up," or mention marijuana.

PO Yakubovsky of the 42nd Precinct (see Board Review #39) arrived after the PSA 7 officers, and stated there were lots of cops on scene—at least ten—from either Borough Crime or Housing Crime talking to two kids. He did not recognize the officers because the units did not work closely with each other. Lt. Terpos (see Board Review #40) stated that when he arrived on scene, he saw six or seven PSA 7 plainclothes crime team members in the lobby with two males who were faced against the south facing wall next to the left stairwell. Although he recognized Sgt. Frias, he did not know their names since he did not supervise them. Neither PO Yakubovsky (see Board Review #39) nor Lt. Terpos (see Board Review #40) saw the officers throw the kids against the wall, search them or use profanity towards them. Lt. Terpos (see Board Review #39) thought he saw the officers frisking them.

In *People v. Pitman*, 102 A.D.3d 595 (2013), officers received a radio report that three men had committed a robbery and fled into a park. The description provided was limited to race, gender and number. Officers then saw defendant and two other men exit the other side of the park. Despite the limitations of the descriptions, the Court found that the officers had a founded suspicion that these men might be the three robbers. When officers turned their car around and began to approach the men, defendant fled. The Court held that these circumstances elevated the level of suspicion to reasonable suspicion of criminality and justified pursuit (see Board Review #41). Under P.G. 212-11 a Terry stop/level 3 encounter is any encounter between a civilian and a uniformed member of the service in which a reasonable person would not feel free to disregard the officer and walk away. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor (see Board Review #31).

§ 87(2)(g)
[REDACTED]

In *People v. Pines*, 99 N.Y.2d 525 (2002), police officers observed defendant walking in a drug-prone area. Officers observed defendant appear nervous and suspected that a drug transaction might occur. Upon seeing the police vehicle, defendant's eyes 'bulged out' and his gaze became fixed. Defendant moved his hand against his side in a motion indicative of adjusting a gun and when officers approached the defendant, he ran away. Here the Court, in concurrence with the Appellate Division, found that the officers' initial observations created a founded suspicion as to possible criminal inquiry. Defendant's subsequent flight and the additional suspicion of that act gave rise to a reasonable suspicion of criminal conduct, which justified pursuit (see Board Review #42).

§ 87(2)(g)

P.G. 221-02 states that Members of Service may apply no more than reasonable force necessary to gain control (see Board Review #37). P.G. 203-09 states that officers must "be courteous and respectful" in their conduct with the public (see Board Review #43)

§ 87(2)(g)

In *People v. Burks*, 652 N.Y.S.2d 980 (1997) the Court held that officers had a reasonable basis for frisking defendant where they had reasonable suspicion that defendant had committed a crime involving potentially dangerous instruments (see Board Review #44). Similarly, in *People v. Figueroa*, 650 N.Y.S.2d 22 (1996) the Court held that the frisk of a defendant was proper where the officer, in the absence of any other police assistance, confronted an individual whom the officer reasonably suspected had committed a serious crime (see Board Review #45). Under P.G. 212-11, a frisk is authorized when the member of service reasonably suspects the person is armed

and dangerous. This includes situations in which the officer reasonably suspects that the person has committed, is committing, or is about to commit a violent crime or when the officer observes something on the person that she/he reasonably suspects is a weapon (see Board Review #31).

§ 87(2)(g)

§ 87(2)(g)

Allegation O - Abuse: Police Officer Andrew Yakubovsky entered and searched § 87(2)(b) in the Bronx.

§ 87(2)(b) (see Board Review #46) was in her boyfriend, § 87(2)(b)'s apartment, when he and § 87(2)(b) came in. § 87(2)(b) was unconscious and his left eye had been split open. § 87(2)(b) told § 87(2)(b) that the cops had injured § 87(2)(b). Shortly thereafter, § 87(2)(b) woke up and said he wanted to go downstairs to find the cop who had injured him. As § 87(2)(b) was trying to leave, § 87(2)(b) heard knocking. She opened the door and saw two plainclothes cops, identified through investigation as Lt. Terpos and PO Yakubovsky. Shortly thereafter, about ten additional cops appeared. LT. Terpos asked § 87(2)(b) what was going on and she replied she did not know, but § 87(2)(b) needed an ambulance. § 87(2)(b) then came to the door and said that his injuries were because of an officer. Lt. Terpos replied, "Well, we're here to figure out who did this to you." As § 87(2)(b) and § 87(2)(b) were speaking to Lt. Terpos, § 87(2)(b) noticed PO Yakubovsky enter her apartment without her permission. In a follow up phone statement (see Board Review #47), § 87(2)(b) noted that the door was wide open and she was trying to deal with § 87(2)(b) and all of the officers when she noticed PO Yakubovsky in her apartment. He told her, "Oh, I'm going to take a look around." § 87(2)(b) (see Board Review #46) stated that the apartment front door opened into the living room, with a hallway on the left and a kitchen to the right. PO Yakubovsky turned on his flashlight and tried to search under the couches. He then flashed his light into the hallway and under the table. He saw § 87(2)(b)'s coat in the living room and asked why there was blood on the coat. § 87(2)(b) picked up the coat and § 87(2)(b) asked PO Yakubovsky if he could please step outside of her house. She informed him that since the incident had occurred outside the apartment, he had no reason to be inside. PO Yakubovsky slowly circled the living room so he could shine his flashlight down the hallway and kitchen. He then exited the apartment.

§ 87(2)(b) (see Board Review #23) stated that he had fainted in his living room and his head was hurting. His girlfriend § 87(2)(b) and § 87(2)(b) were trying to get him to

get up when seven or eight officers came and knocked on his door. The officers asked what happened. § 87(2)(b) replied that a cop had beat him up. He told them that he wanted to go downstairs to look for the cop, but an officer held him back. After about twenty seconds the officers let them go. § 87(2)(b) stayed upstairs to speak to the officers and he and § 87(2)(b) went downstairs.

§ 87(2)(b) (see Board Review #33) testified that when he and § 87(2)(b) got upstairs they began shouting and arguing because § 87(2)(b) wanted to go back downstairs and § 87(2)(b) wanted him to stay inside. Soon thereafter, officers knocked on their apartment door, which § 87(2)(b) opened. The officers spoke with § 87(2)(b) and § 87(2)(b) and then the officers and two brothers went downstairs.

PO Yakubovsky (see Board Review #39) decided to go upstairs to look for the gun and heard a really bad argument coming from Apt. 2F. As he was listening, Lt. Terpos found him. They could hear loud banging against the door, and eventually Lt. Terpos stated that they couldn't let this go further, as someone could be getting hurt. Lt. Terpos banged on the door and § 87(2)(b) opened the door. § 87(2)(b) was behind her with blood on his face. He kept cursing and said, "Them niggers jumped me." PO Yakubovsky was confused because he wasn't sure if there had been a fight and tried to ask what happened. He noted that at this point, they were still trying to catch the guys and thought it could be related to the gun job. PO Yakubovsky noted that shortly after § 87(2)(b) opened the door, they followed her and § 87(2)(b) into the apartment. PO Yakubovsky stated that they had all consensually entered the apartment. He stated that he knew the entry was permitted because § 87(2)(b) never protested. He did not hear § 87(2)(b) tell him to get out of her apartment or ask why they were looking around. PO Yakubovsky explained that he entered the apartment because the officers didn't know if the fight had happened inside or outside or if § 87(2)(b) had people he was trying to hide from since she was holding him back. PO Yakubovsky did not think he pulled out a flashlight, but he peeked down the hallway to make sure there wasn't anyone else there. He did not peek under the couch. He added that no actions were taken in the apartment to look for the gun.

Lt. Terpos (see Board Review #40) testified that he and PO Yakubovsky were conducting an interior patrol on the east stairwell when they heard noise coming from the second floor. There was a male and female screaming in Spanish and things being thrown. After about two minutes, Lt. Terpos knocked on the door where the noise was coming from. Lt. Terpos asked if they could open the door because they had heard a loud noise and wanted to make sure that everyone was all right. § 87(2)(b) and § 87(2)(b) were standing the vestibule of the apartment. § 87(2)(b) appeared to be agitated and was trying to leave the apartment and go into the hallway. He had a cut above his eye that was actively bleeding and needed stitches. § 87(2)(b) was holding him back and trying to talk to § 87(2)(b) and Lt. Terpos at the same time. § 87(2)(b) stated the police had thrown him on the ground and cut his eye open. Lt. Terpos told § 87(2)(b) needed to calm down and get medical attention for his eye. He gave them his name, that he was a supervisor and was now conducting an investigation with § 87(2)(b) as a person that needed medical attention and not a criminal suspect. Lt. Terpos then asked if they could wait for the ambulance and find out what happened to his eye in the apartment instead of the hallway. § 87(2)(b) and § 87(2)(b) consented by nodding. They walked into the apartment with Lt. Terpos and PO

Yakubovsky, willingly, while still carrying on an active conversation with them. That they did not tell them to get out of the apartment or try to close the door on them. Lt. Terpos did a cursory look and poked his head into the living room to make sure that there no other victims or perpetrators waiting to do harm or hold them at gunpoint. He only saw a baby and returned to the vestibule area. At no point did he take out his flashlight. He could not remember PO Yakubovsky taking out his flashlight and looking under the sofa.

In *Payton v. New York*, 445 U.S. 573 (1979), the Supreme Court that the Fourth Amendment prohibited the police from making warrantless and nonconsensual entry into a suspect's home in order to make a routine felony arrest (see Board Review #48).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation P - Abuse: Police Officer Nicholas Rios refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) (see Board Review #46) stated that she, § 87(2)(b) and all of the cops exited her apartment and went to the street. About five to ten minutes later an ambulance arrived for § 87(2)(b) was standing with § 87(2)(b) and § 87(2)(b). She asked them if the cop that had attacked § 87(2)(b) was there and they replied yes, pointing to PO Rios. § 87(2)(b) who at the time of her interview could only identify PO Rios as the officer in the blue jacket, approached him and asked him politely for his name and badge number. He told her he didn't have to give it to her.

PO Rios (see Board Review #34) stated that after leaving to resume patrol, they received a call to come back to the scene. When he returned, PO Rios saw an ambulance and a group of people who were agitated. § 87(2)(b) asked PO Rios what happened and he explained the stop to her. § 87(2)(b) and her mother accused PO Rios of holding § 87(2)(b) down and beating him up. § 87(2)(b) then asked PO Rios for his name, which he provided saying, "PO Rios, 6583."

Sgt. Frias (see Board Review #35) and PO Laguna (see Board Review #36) testified to returning to the scene, but neither recalled anyone asking PO Rios for his name or badge number. PO Peña (see Board Review #35) could not recall hearing anyone ask the other officers for their name and shield.

Patrol Guide Procedure 203-09 states that officers must courteously and clearly state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests it (see Board Review #43).

§ 87(2)(g)

Squad: 8

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date